

growers associated with any one of the Defendants has used poultry litter in such a manner as to contribute to the asserted health risk. Moreover, in its Motion for a Preliminary Injunction, Plaintiff does not allege a single instance of a Defendant, a poultry grower, or any other third party flouting Oklahoma or Arkansas law governing the use of poultry litter. Therefore, the conduct Plaintiff seeks to terminate is *lawful conduct* not only allowed, but *affirmatively licensed and regulated*, by both Oklahoma and Arkansas.

As noted in the principal brief, the paradox of this case is the disconnect between the claims put forward by Attorney General Edmondson and the views and conduct of the rest of the Oklahoma state government. This suit represents, in effect, a collateral federal court attack on the State of Oklahoma's failure to act in accordance with General Edmondson's own personal views. General Edmondson's displeasure is palpable throughout Plaintiff's case. For example, Plaintiff's expert Dr. Robert Taylor complains of campaign contributions by "giant agribusiness corporations" that "threaten American democracy," which he opines is creating an American economic system that is "slithering towards fascism." Taylor Depo. 138:2-139:19 Plaintiff's expert Dr. Valerie Harwood has explained her view that public officials (in Florida, for she has no experience with Oklahoma officials) "take great care not to get positive readings" because "it causes a lot less public alarm." Harwood Depo. 95:16-96:18. Plaintiff's expert Dr. Robert Lawrence asserted that Oklahoma Health Director Dr. Crutcher must be under the influence of some unidentified "forces . . . that make it very difficult for him to take action." Lawrence Depo. 27:9-14. Plaintiff seeks to use this Court to force Oklahoma to do what Oklahoma itself has decided need not be done.

This Motion is not an appropriate venue for settling such differences. Indeed, "[i]t is well settled an injunction must be narrowly tailored to remedy the harm shown." *Garrison v. Baker*

Hughes Oilfield Operations, Inc., 287 F.3d 955, 961 (10th Cir. 2002). Moreover, in contemplating a requested injunction, “the court's discretion [should] be exercised in light of the purposes of the statute on which [the] plaintiff's suit is based.” *Id.* (quoting *Roe v. Cheyenne Mountain Conference Resort, Inc.*, 124 F.3d 1221, 1230 (10th Cir. 1997)). In *Garrison*, the Tenth Circuit reversed a grant of injunctive relief because it was so broad that it limited lawful activity. *Id.* at 962-963. Accord *NLRB v. Birdsall-Stockdale Motor Co.*, 208 F.2d 234, 237 (10th Cir. 1954) (“courts may not grant an enforcement order or injunction so broad as to make punishable the conduct of persons who act independently and whose rights have not been adjudged according to law.”). Courts have also declined to issue an injunction where the harm complained of is, at least in part, self-inflicted, *Fiba Leasing Co., Inc., v. Airdyne Indus., Inc.*, 826 F. Supp. 38, 39 (D. Mass. 1993).

These principles are all relevant to this case. Plaintiffs’ requested injunction is so sweeping that it would necessarily trench upon legal and appropriate conduct. Moreover, as a marketer and proponent of poultry litter itself (See, e.g., <http://www.ok-littermarket.org/>; http://www.ok.gov/okcc/Agency_Divisions/Water_Quality_Division/WQ_Poultry_Litter_Transfer_Program/), Oklahoma would be partially responsible for any injuries asserted in Plaintiff’s case. Most importantly, Oklahoma has at its disposal a regulatory scheme more than capable of addressing the asserted harm, were it actually to exist. Therefore, George’s, Inc. and George’s Farms, Inc., file this separate brief to set before the Court a more detailed discussion of the relevant state administrative schemes that would be supplanted were the Court to issue the requested injunction.

II. DISCUSSION

Both Oklahoma and Arkansas Regulate and License the Use of Poultry Litter

Both Oklahoma and Arkansas have enacted extensive regulatory systems which specify the appropriate use of poultry litter on any particular farm. As part of these regulatory systems, both states issue permits for or otherwise certify the authorization of farmers and poultry litter applicators to apply poultry litter to the specific properties where it is utilized.

A. Oklahoma's poultry litter regulations

Most poultry growing operations in the Watershed are small, family run businesses. However, Oklahoma regulates these farms as stringently as it would any major industry. In particular, Oklahoma has established a complex system for regulating and licensing the application of litter as a fertilizer and soil amendment. *See* 2 Okla. Stat. §§ 10-9 – 10-9.12. (Oklahoma Registered Poultry Feeding Operations Act); 10-9.13-10-9.15 (Oklahoma Poultry Waste Transfer Act); 10-9.16 – 10-9.21 (Oklahoma Poultry Waste Applicators Certification Act); 10-9.22 – 10-9.25 (Educational Programs on Poultry Waste Management); 20-1 – 20-64 (Oklahoma Concentrated Animal Feeding Operations Act); OAC §§ 35:17, subchapter 5 (regulations implementing the Oklahoma Registered Poultry Feeding Operations Act); 35:17, subchapter 7 (regulations implementing the Oklahoma Poultry Waste Applicators Certification Act); 35:17, subchapter 3 (regulations implementing the Oklahoma Concentrated Animal Feeding Operations Act). Together, this regulatory mechanism demands that poultry growers and anyone who land applies poultry litter comply with a stringent program of pollution controls, nutrient testing, training, continuing education and record keeping and reporting.

According to the State, compliance with these litter laws and regulations strikes the appropriate balance to encourage agriculture while sufficiently protecting State waters from any potential risk of pollution originating from poultry operations or the land-application of litter. *See* OAC §§ 35:17-5-1 (“These rules shall serve to control nonpoint source runoff and discharges from poultry waste application of poultry feeding operations. The rules allow for the monitoring of poultry waste application to land or removal from these operations and assist in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma.”); OAC § 35-17-3-1 (“These rules provide that all animal feeding operations be conducted so as to protect the waters of the State of Oklahoma from contamination. The rules applicable to the licensing process are designed to provide harmony within agricultural production while providing protection to the waters of the State of Oklahoma”). Although Plaintiff asserts that only this Court’s injunction can reign in alleged pollution from poultry operations (Motion at 2), the design and enforcement of Oklahoma’s own laws address any threats or risks posed to public health or the environment.

1. The Oklahoma Registered Poultry Feeding Operations Act

The Oklahoma Registered Poultry Feeding Operations Act demands that every poultry feeding operation must be registered with the State. 2 Okla. Stat. § 10-9.3; OAC § 35:17-5-3(a). This registration includes a map of the farm, showing its proximity to state waters, drainage pathways from the farm, land application sites, and the location of poultry litter storage areas. 2 Okla. Stat. § 10-9.5.B.5. The registration includes a copy of the farm’s Animal Waste Management Plan (“AWMP”). *Id.* § 10-9.5.B.6; OAC § 35:17-5-3(b). These AWMPs incorporate Best Management Practices (“BMPs”), designed by ODAFF, to ensure that “[t]here shall be no discharge of poultry waste to waters of the state,” and that the use of poultry litter shall “not create an environmental or a public health hazard” and “not result in the contamination

of waters of the state.” 2 Okla. Stat. §§ 9-7.B.1, B.4.a, B.4.b. BMPs are “schedules of activities, prohibitions of practices, maintenance procedures and other management practices which prevent or reduce the pollution of waters of the state as established by” ODAFF. 2 Okla. Stat. § 10-9.1.2. They ensure that poultry litter management does “not create an environmental or a public health hazard,” does “not result in the contamination of public or private drinking water supplies,” and does “conform with Oklahoma Water Quality Standards,” and they “ensure that watershed and groundwater are adequately protected.” 2 Okla. Stat. § 20-10.B.4.

AWMPs are individually designed for each farm by the United States Department of Agriculture Natural Resource Conservation Service (“NRCS”) or State agency experts, OAC § 35:17-5-3(b)(3), based on a nutrient analysis of the specific poultry litter and the specific soils to which it will be applied in order to determine proper land application rates. 2 O.S. § 9-7.C. These AWMPs also include, at a minimum, the legal description of the land where poultry litter is applied, the type of equipment used for application, soil maps, requirements for adequate litter storage and the calculations and assumptions used to determine application rates in accordance with Oklahoma law. *Id.*; OAC § 35-17-5-5(a). AWMPs prohibit land application during rainfall, when the ground is frozen or saturated, or on areas subject to excessive erosion. 2 O.S. § 9.7.C.6; OAC § 35:17-5-5(a)(7)(B), (D). If the farm lies in a nutrient-limited watershed or nutrient-vulnerable groundwater area, as defined in the regulations, farmers must test poultry litter annually for pH, nutrient concentrations and moisture with sampling analyses performed by environmental testing labs certified by the Oklahoma Department of Environmental Quality (“ODEQ”) or ODAFF. 2 O.S. §§ 9.7.C.8, 9.7.E; OAC § 35:17-5-5(a)(7). The rates at which poultry litter may be applied to any parcel of property are based upon the results of these tests. OAC § 35:17-5-5(a)(6).

Poultry growers must attend training courses on poultry litter handling, nutrient management, land application, environmental protection and all relevant regulations from the Oklahoma Cooperative Extension Service. 2 O.S. § 10-9.5.F.1; OAC § 35-17-5-11. Training is verified with a certificate of completion, which must be maintained at the farm for five years. OAC § 35-17-5-11(d). No poultry integrator, like Defendants, may contract with any poultry growers that failed to satisfy their education requirements. 2 O.S. § 10-9.5.G; OAC § 35-17-5-11(f).

2. The Oklahoma Poultry Waste Applicators Certification Act

Any person that land applies poultry litter must be certified by ODAFF, 2 Okla. Stat. § 10-9.17; OAC § 35:17-7-3(a), following mandatory training on environmentally protective methods for land applying poultry litter. OAC § 35:17-7-8. Certified applicators must renew their training every year. *Id.* § 35:17-7-8(b). Prior to all land applications, certified applicators must test the soil on the property and the poultry litter to be applied for nutrient content, 2 Okla. Stat. § 10.9-19, and comply with the farm's AWMP at all times. *Id.* § 10.9-19a. Failure to test and apply poultry litter according to the AWMP can result in revocation of a poultry grower's application certificate. *Id.* § 10.9-21. All applicators must submit to ODAFF annual reports listing, (1) the legal description of the properties and conservation area where the poultry litter was produced, (2) where the poultry litter was land applied, (3) the date of each land application, (4) the total amounts and amounts per acre of each application, and (5) soil test results. *Id.* § 10-9.18.A; OAC § 35:17-7-4(d).

3. The Oklahoma Concentrated Animal Feeding Operations Act

Large poultry feeding operations (those feeding at least 30,000 laying hens or broilers or at least 16,500 turkeys) are considered concentrated animal feeding operations ("CAFOs") under

Oklahoma law. 2 O.S. §§ 20-3.11(c)(1)(g)-(i).¹ CAFOs are subject to even more stringent poultry litter management requirements. As with smaller operations, CAFOs must be licensed, *id.* § 2-20-6; OAC § 35:17-3-5, adhere to individually tailored AWMPs, OAC § 35:17-3-14, and require all employees handling or applying poultry litter to attend annual training courses. 2 Okla. Stat. § 2-20-7.H; OAC § 35:17-3-18. All CAFO license applications are subject to public notice and comment. 2 Okla. Stat. § 2-20-8; OAC §§ 35:17-3-7, 35:17-3-9. After application is made, any affected property owner, including the State, may request an administrative hearing involving discovery, testimony and argument on whether or not the license should be granted. 2 Okla. Stat. § 2-20-8.C.4.

In addition to the environmental protections outlined in the AWMPs, each CAFO must submit to ODAFF a Pollution Prevention Plan detailing structural run-off controls, poultry litter retention structures, drainage pathways, local hydrogeology, spill contingency plans, BMPs, extensive sampling plans for groundwater, soil and poultry litter (including sampling for coliform bacteria), plans for poultry litter applications, employee training and recordkeeping provisions. 2 Okla. Stat. §§ 2-20.9.A, F; OAC §§ 35:17-3-11, 35:17-3-12, 35:17-3-20. ODAFF reviews each Pollution Prevention Plan and may require changes where necessary. 2 Okla. Stat. § 2-20.9.D.

4. Extensive Enforcement Authority Already Exists To Remedy Pollution

Several state agencies have existing authority to pursue a panoply of enforcement mechanisms against anyone who violates Oklahoma's poultry litter regulations. Failure to

¹ ODAFF may also, on a case-by-case basis, designate any poultry feeding operation as a CAFO, regardless of size, "if it is determined to be a significant contributor of pollution to the waters of the state." 2 Okla. Stat. § 2-20.6.D. In doing so, ODAFF will consider the poultry feeding operation's size, proximity to state waters, "method of dispos[ing]" poultry litter, the slope of the land, vegetation, rainfall and any other factors relevant to the potential for run-off. *Id.* §§ 2-20.6.D.1.a – f. Additionally, if any poultry feeding operation commits a certain number of violations, it may be required to comply with the more stringent CAFO regulations. 2 Okla. Stat. § 10-9-9; OAC § 35-17-5-10.1(1).

adhere to the above catalog of regulations can result in misdemeanor fines ranging from \$200, 2 Okla. Stat. § 10-9.11.A.1. (Oklahoma Registered Poultry Feeding Operations Act), to \$10,000 per violation, 2 Okla. Stat. § 20-26.B (Oklahoma CAFO Act). Fines can also be assessed administratively, with assessments of up to \$200 per day of non-compliance, along with attorney's fees and costs. 2 Okla. Stat. §§ 10-9.11.B.1.a, B.4. Some violations can lead to imprisonment of up to six months per violation, 2 O.S. § 20-26.B (Oklahoma CAFO Act), and the revocation of the offender's poultry registration and land application certificate, 2 Okla. Stat. § 10-9.12; OAC § 35:17-5-10.1 (Oklahoma Registered Poultry Feeding Operations Act); 2 Okla. Stat. § 10-9.21 (Oklahoma Poultry Waste Applicators Certification Act); *see also* Depo. of Dan Parrish at 191:21-192:2 ("Q. And in Oklahoma, withdrawing that registration or pulling that registration, that's equivalent to a shut-down order, isn't it? Because you have to be registered to operate in this state? A. If they're producing over ten tons of waste per year, that is correct.").

Injunctive relief is widely available in Oklahoma district courts under current law. Under the Oklahoma Poultry Feeding Operation Registration Act, ODAFF can bring its own action in district court for either prohibitory or mandatory injunctive relief to "redress or restrain" violations. 2 Okla. Stat. §§ 10-9.11.B.1.b, B.2, C; *see also* 2 Okla. Stat. § 20-26.F (parallel authority under the Oklahoma CAFO Act). Upon the request of the Commissioner of Agriculture, "[i]t shall be the duty of the Attorney General ... to bring such actions." *Id.* §§ 10-9-11.C.3 (Oklahoma Registered Poultry Feeding Operations Act); 20-26.F.3 (Oklahoma CAFO Act).

Oklahoma law provides a number of additional options to the Oklahoma Department of Health, Department of Environmental Quality ("ODEQ") and other public officials for the elimination of threats or risks to health and the environment. *See* 27A Okla. Stat. § 2-3-502.E

(Whenever ODEQ “finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment, the Executive Director may without notice or hearing issue an order ... requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately....”); 50 Okla. Stat. § 11 (“A public nuisance may be abated by any public body or officer authorized thereto by law”); 63 Okla. Stat. § 1-106.B.1 (The Department of Health may “investigate conditions as to health, sanitation, and safety of ... places of public resort” and “take such measures as deemed necessary by the Commissioner to control or suppress, or to prevent the occurrence or spread of, any communicable, contagious or infectious disease ... and abate any nuisance affecting injuriously the health of the public or any community”). Whether resorting to remedies specific to the regulation of poultry growers or the extensive emergency powers present throughout Oklahoma law, there is no shortage of authority for public officers to abate a genuine health or environmental emergency.

B. Arkansas’ poultry litter regulations

A portion of the Illinois River Watershed is located in the State of Arkansas. Arkansas also extensively regulates poultry litter, providing as much or more protection from water pollution as Oklahoma’s own authorities. *See generally* Ark. Code Ann. § 15-20-901 (Arkansas Poultry Feeding Operations Registration Act); *id.* § 15-20-1001 (Arkansas Soil Nutrient Management Planner and Applicator Certification Act); *id.* § 15-20-1101 (Arkansas Soil Nutrient Application and Poultry Litter Utilization Act); *id.* § 15-20-1201 (Surplus Nutrient Removal Incentives Act). These laws and their corresponding regulations implement the Arkansas General Assembly’s considered judgment that the beneficial uses of poultry litter can be balanced with protecting state waters. *See* Ark. Code Ann. § 15-20-902(1), (2) (“It is found by the General Assembly that: (1) Litter provides nutrients that are beneficial to plant growth; (2)

The proper utilization of litter allows the addition of nutrients to the soil at a low cost”); *see also* 138-00-022 Ark. Code R. § 2201.1.A. (“The primary goal of this Title is to maintain the benefits derived from the wise use of Poultry Litter, commercial fertilizers and other soil Nutrients while avoiding unwanted effects.”).

Each poultry feeding operation must register annually with the Arkansas Soil and Water Conservation Commission (the “Commission”, now the Arkansas Natural Resources Commission). Ark. Code Ann. § 15-20-904(a); 138-00-109 Ark. Code R. § 1902.2. This allows the Commission to track the operation’s location, number and type of poultry raised, the litter management system employed, the amount of litter produced, used, sold, transferred and stored and the land application practices, if any. *Id.* § 15-20-904(b); 138-00-019 Ark. Code R. § 1902.3.

The General Assembly has recognized the sensitivity of certain areas, and has made it unlawful for any person to land-apply poultry litter in the Illinois River Watershed, including portions of Benton, Crawford and Washington Counties (which border Oklahoma), without an approved Poultry Litter Management Plan (“Plan”) and a private or commercial applicator certification. Ark. Code Ann. §§ 15-20-1104(a)(1); *Id.* § 15-20-1108; 138-00-022 Ark. Code R. § 2202.3. Every Plan is designed by a Certified Nutrient Planner who is trained by the NRCS and must pass a written exam to ensure that they “have the knowledge, skill, and abilities to properly develop nutrient management plans.” Ark. Code Ann. §§ 15-20-1002(4), 15-20-1004, 15-20-1005; 138-00-020 Ark. Code R. §§ 2001.1.D, 2002.4. A Certified Nutrient Planner must re-apply for certification every five years. 138-00-020 Ark. Code R. § 2003.1.A. Applications for renewal will only be granted with proof of continuing education approved by the Commission. *Id.* §§ 2003.2.A.3; 2003.4.

Anyone who applies poultry litter in a “nutrient surplus area,” such as the Illinois River Watershed, must obtain either a private or commercial applicator license. Ark. Code Ann. § 15-20-1108; 138-00-021 Ark. Code R. § 2101.1. Both private and commercial applicators must attend a training course that meets NRCS conservation practice standards. 138-00-021 Ark. Code R. §§ 2101.1.D; *id.* § 2102.1. Applicators must keep detailed records of their activities, including the type of nutrient applied to fields, the source, location, date, application rate and type of cover vegetation on the field. *Id.* § 2105.1.B. Applicator certifications must be renewed every five years. *Id.* § 2104.1.

Every Poultry Litter Management Plan is site-specific and includes extensive information about the poultry growing operation and the lands where litter is applied. Ark Code Ann. § 15-20-1107; 138-00-022 Ark. Code R. § 2203.3.B. Operators and Commission inspectors can review every plan to learn the location and legal description of the lands (complete with aerial photographs); the type, number and weight of poultry at the operation, as well as the phases of production, duration of confinement and amount of poultry litter generated; type and capacity of poultry litter storage facilities; individual field maps marked with setbacks, buffers, surface waters and environmentally sensitive areas; soil type, crop type, crop rotation practices, expected target yields and the expected nutrient uptake amount of those crops; land treatment practices; a description of the application equipment; the expected application seasons and the number of days per season when poultry litter will be applied; and the estimated acres needed to apply all of the poultry litter generated by the poultry feeding operation. 138-00-022 Ark. Code R. § 2204.1A. Each plan includes application rates for litter to be applied based on testing of the soil and the litter for nitrogen, phosphorus and potassium levels therein. The limits are based on a phosphorus index and provide the calculations on how those rates are determined. *Id.* Plans

bar poultry litter application when soil is saturated, frozen or covered in ice or snow. 138-00-022 Ark. Code R. § 2202.4.C. In no circumstances will poultry litter “be applied in any matter that will allow excessive nutrients to enter Waters within the State or to run onto adjacent property.” *Id.* § 2202.4.D.

Operators must keep records of their soil tests, poultry litter tests, actual applied rates, methods and dates of application, crop rotation, crop yields and details on any spills of poultry litter for five years. *Id.*; see also *id.* § 2204.4. Each plan is signed by the Certified Nutrient Planner that designed it, *id.* §2204.1.A., reviewed by the operator annually for any required adjustments, *id.* § 2204.3, and reviewed every five years by a Certified Nutrient Planner. *Id.* The Certified Nutrient Planner then submits a report to the Commission recommending changes to the Plan based on recent soil and litter nutrient testing data. *Id.*

Arkansas’ poultry litter management regulations include enforcement and penalty provisions. Commission inspectors may enter any poultry feeding operation to determine compliance with the Plan or to investigate complaints. Ark Code. Ann. §§ 15-20-905, 15-20-1112; 138-00-019 Ark. Code R. § 1903.2.A; 138-00-022 Ark. Code R. §§ 2206.1, 2206.2.A. If the Executive Director of the Commission finds that there is sufficient evidence, the Executive Director may issue a warning letter or Administrative Consent Order requiring corrective action. 138-00-019 Ark. Code. R. § 1903.C; 138-00-022 Ark. Code R. § 2206.2.B. Violations of the Arkansas Poultry Feeding Operations Registration Program can lead to a fine of up to \$500. 138-00-019 Ark. Code R. § 1903.3.A. Violations of the Arkansas Soil Nutrient and Poultry Litter Application and Management Program can lead to a maximum fine of \$2,500. 138-00-022 Ark. Code R. § 2206.3.A.

Like Oklahoma, Arkansas has ample authority to immediately abate any threats to human health or the environment. Whenever the “Commission finds that the public health, safety, or welfare imperatively requires emergency action” it may issue an order summarily suspending, limiting or restricting the application of poultry litter before an adjudicative hearing occurs. 139-00-021 Ark. Code R. §§ 2006.4, 2107.4. Other laws allow the Governor and the Arkansas State Board of Health to abate nuisances and stop the spread of infectious diseases. *See, e.g.*, Ark. Code Ann. §§ 20-7-110(b) (the Governor may order the Board of Health “to take such action as the public safety of the citizens demands to prevent the spread of epidemic or contagious disease.”); Ark. Code. Ann. 20-7-113(b) (upon report of the Board of Health, the Governor “may declare them to be public nuisances and order them to be changed as he or she shall direct, or be abated and removed.”). Thus, as in Oklahoma, the State of Arkansas has no shortage of authority for public officers to abate a genuine health or environmental emergency, whether through resorting to remedies specific to the regulation of poultry growers or the extensive emergency powers present throughout Arkansas law.

III. CONCLUSION

Plaintiff would have this Court enter a broad injunction which would terminate legal and appropriate conduct sanctioned by the States of Oklahoma and Arkansas. Plaintiff makes this request without alleging a single instance of any individual or corporation having violated the laws of either Oklahoma or Arkansas which govern the use of poultry litter, and without providing a single instance of anyone who has gotten sick as a result of exposure to poultry litter or to the waters of the Illinois River Watershed. Moreover, as a regulator, marketer and proponent of poultry litter itself, Oklahoma would be partially responsible for any such injuries

had they ever occurred. Oklahoma already has a regulatory scheme in place more than capable of addressing the asserted harm, to the extent it actually exists.

WHEREFORE, PREMISES CONSIDERED, for all of the above reasons, separate Defendants, George's, Inc. and George's Farms, Inc., respectfully request the Court to deny the Plaintiffs' Motion for Preliminary Injunction, and for any and all other appropriate remedies in equity or at law.

Respectfully submitted,

BY: /s/ James M. Graves

James M. Graves (OB # 16657) jgraves@bassettlawfirm.com

Woody Bassett (AB # 77006) wbassett@bassettlawfirm.com

Appearing Pro Hac Vice

Paul E. Thompson, Jr. (AB # 02111) pthompson@bassettlawfirm.com

Appearing Pro Hac Vice

BASSETT LAW FIRM LLP

221 North College Avenue

P.O. Box 3618

Fayetteville, AR 72702-3618

(479) 521-9996

(479) 521-9600 Facsimile

-and-

Randall E. Rose (OB #7753) rer@owenslawfirm.com

OWENS LAW FIRM, P.C.

234 W. 13th Street

Tulsa, OK 74119

(918) 587-0021

(918) 587-6111 Facsimile

**ATTORNEYS FOR GEORGE'S, INC. and
GEORGE'S FARMS, INC.**

CERTIFICATE OF SERVICE

I certify that on the 12th day of February, 2008, I electronically transmitted the attached document to the following ECF registrants:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Robert D. Singletary, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
robert_singletary@oag.state.ok

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
David P. Page
Riggs Abney Neal Turpen Orbison & Lewis

doug_wilson@riggsabney.com,
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
dpage@riggsabney.com

J. Randall Miller
Louis W. Bullock
Miller Keffer & Bullock

rmiller@mkblaw.net
lbullock@mkblaw.net

Elizabeth C. Ward
Frederick C. Baker
William H. Narwold
Claire Xidis
Motley Rice

lward@motleyrice.com
fbaker@motleyrice.com
bnarwold@motleyrice.com
cxidis@motleyrice.com

COUNSEL FOR PLAINTIFFS

Stephen L. Jantzen
Patrick M. Ryan
Paula M. Buchwald
Ryan, Whaley & Coldiron, P.C.

sjantzen@ryanwhaley.com
pryan@ryanwhaley.com
pbuchwald@ryanwhaley.com

Mark D. Hopson
Jay Thomas Jorgensen
Timothy K. Webster
Sidley Austin LLP

mhopson@sidley.com
jjorgensen@sidley.com
twebster@sidley.com

Robert W. George
Michael Bond
Kutak Rock LLP

robert.george@kutakrock.com
michael.bond@kutakrock.com

**COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.;
AND COBB-VANTRESS, INC.**

R. Thomas Lay
Kerr, Irvine, Rhodes & Ables

rtl@kiralaw.com

Jennifer S. Griffin
Lathrop & Gage, L.C.

jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
Lawrence W. Zeringue
David C. Senger

rredemann@pmrlaw.net
lzingue@pmrlaw.net
dsenger@pmrlaw.net

Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

Robert E. Sanders
E. Stephen Williams
Young Williams P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

A. Scott McDaniel
Nicole Longwell
Phillip Hixon

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com

COUNSEL FOR PETERSON FARMS, INC.

John R. Elrod
Vicki Bronson
Joshua Wiseley
Conner & Winters, P.C.

jelrod@cwlaw.com
vbronson@cwlaw.com
jwiseley@cwlaw.com

Bruce W. Freeman
D. Richard Funk
Conner & Winters, LLLP

bfreeman@cwlaw.com
rfunk@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker
Colin H. Tucker
Theresa Noble Hill
Leslie Southerland
Rhodes, Hieronymus, Jones, Tucker & Gable

jtuckercourts@rhodesokla.com
chtucker@rhodesokla.com
thillcourts@rhodesokla.com
lsoutherland@rhodesokla.com

Terry W. West
The West Law Firm

terry@thewestlawfirm.com

Delmar R. Ehrich
Bruce Jones
Krisann Kleibacker Lee
Dara D. Mann
Kristen Carney
Faegre & Benson LLP

dehrich@faegre.com
bjones@faegre.com
kklee@faegre.com
dmann@faegre.com
kcarney@faegre.com

COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

Michael D. Graves
D. Kenyon Williams, Jr.
COUNSEL FOR POULTRY GROWERS

mgraves@hallestill.com
kwilliams@hallestill.com

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

C. Miles Tolbert
Secretary of the Environment
Plaintiffs of Oklahoma
3800 North Classen
Oklahoma City, OK 73118
COUNSEL FOR PLAINTIFFS

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, DC 20005
**COUNSEL FOR TYSON FOODS, INC.,
TYSON POULTRY, INC., TYSON
CHICKEN, INC.; AND COBB-VANTRESS,
INC.**

/s/ James M. Graves
James M. Graves